

## REMARKS

Status of the Claims*Pending claims*

Claims 1 to 12 are pending as filed.

Species Restriction Requirement

The Office alleged that the pending claims of the application are directed to several patentably distinct inventions under 35 U.S.C. §121, as set forth in detail on page 2 of the OA. Applicant is required to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

The Species Election

Applicants elect the species melphalan, where claims 1 and 7 are generic, and claims 5 and 11 specifically list several exemplary species, including melphalan.

When the elected species is held to be allowable, Applicants are entitled to consideration (examination) of additional species; if all species are held to be allowable, a generic claim should be allowed (MPEP §809.02(a); pg 800-52, 53, 8<sup>th</sup> Edition, Rev. 3, Aug. 2005).

### CONCLUSION

It is believed that the all claims pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858 720 5133.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing atty docket no. **350292000402**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

By 

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